

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ROBERT L. CLARK,

Petitioner,

v.

UNITED STATES OF AMERICA,

Civil Action No. 5:05CV147
Criminal Action No. 5:04CR9-09
(JUDGE STAMP)

Respondent.

**REPORT AND RECOMMENDATION THAT PETITIONER'S MOTION TO
WITHDRAW PETITION TO VACATE SENTENCE PURSUANT TO
28 U.S.C. § 2255 BE GRANTED**

Counsel was appointed for Petitioner for the evidentiary hearing scheduled on July 24, 2007. After consultation with counsel, Petitioner moved to withdraw his petition in this matter. I find Petitioner has made a knowing, voluntary and intelligent decision after consultation with counsel and recommend his Motion to Withdraw His § 2255 Motion be granted.

Any party who appears pro se and any counsel of record, as applicable, may, within ten (10) days from the date of this Report and Recommendation, file with the Clerk of the Court an original and two (2) copies of the written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection. Failure to timely file objections to the Report and Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Report and Recommendation.

The Clerk of the Court is directed to provide a copy of this Report and Recommendation to parties who appear pro se and all counsel of record, as applicable, as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the Northern District of West Virginia.

DATED: July 26, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE